

1 Alison K. Hurley, State Bar No. 234042
ahurley@bremerwhyte.com
2 Tiffany L. Bacon, State Bar No. 292426
tbacon@bremerwhyte.com
3 BREMER WHYTE BROWN & O'MEARA LLP
20320 S.W. Birch Street
4 Second Floor
Newport Beach, California 92660
5 Telephone: (949) 221-1000
Facsimile: (949) 221-1001
6
7 Attorneys for Defendants,
FRANK FERRARA and CHARLIE FERRARA

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10
11 CORY SPENCER, an individual; DIANA
MILENA REED, an individual; and
12 COASTAL PROTECTION RANGERS,
INC., a California non-profit public
13 benefit corporation,

14 Plaintiff,

15 vs.

16 LUNADA BAY BOYS; THE
INDIVIDUAL MEMBERS OF THE
17 LUNADA BAY BOYS, including but not
limited to SANG LEE, BRANT
18 BLAKEMAN, ALAN JOHNSTON AKA
JALIAN JOHNSTON, MICHAEL RAE
19 PAPAYANS, ANGELO FERRARA,
FRANK FERRARA, CHARLIE
20 FERRARA; CITY OF PALOS VERDES
ESTATES; CHIEF OF POLICE JEFF
21 KEPLEY, in his representative capacity;
and DOES 1-10,

22 Defendants.
23

Case No. 2:16-cv-2129

Judge: Hon. S. James Otero
Dept: Courtroom 10C

Magistrate Judge:
Hon. Rozella A. Oliver

**DEFENDANT FRANK
FERRARA'S NOTICE OF
LODGING [PROPOSED]
STATEMENT OF
UNCONTROVERTED FACTS
AND CONCLUSIONS OF LAW**

*[Filed concurrently with Notice of
Motion; Memorandum of Points and
Authorities; Request for Judicial
Notice of Adjudicative Facts;
Declaration of Tiffany Bacon; Notices
of Lodging; [Proposed] Judgment
lodged herewith]*

Date: August 21, 2017
Time: 10:00 a.m.
Dept: Courtroom 10C


Complaint Filed: March 29, 2016
Trial Date: November 7, 2017

1 **TO THE HONORABLE COURT AND TO ALL PARTIES AND THEIR**
2 **RESPECTIVE ATTORNEYS OF RECORD:**

3 PLEASE TAKE NOTICE that Defendant FRANK FERRARA (“Defendant”
4 or “Frank Ferrara”) will and does hereby lodge the [Proposed] Statement of
5 Uncontroverted Facts and Conclusions of Law.

6 Dated: July 25, 2017

BREMER WHYTE BROWN & O’MEARA
LLP

7
8 By: 
9 Alison K. Hurley
10 Tiffany L. Bacon
11 Attorneys for Defendants
12 FRANK FERRARA and CHARLIE
13 FERRARA
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[Proposed] Statement of Uncontroverted Facts and
Conclusions of Law

Alison K. Hurley, State Bar No. 234042
ahurley@bremerwhyte.com
Tiffany L. Bacon, State Bar No. 292426
tbacon@bremerwhyte.com
BREMER WHYTE BROWN & O'MEARA LLP
20320 S.W. Birch Street
Second Floor
Newport Beach, California 92660
Telephone: (949) 221-1000
Facsimile: (949) 221-1001
Attorneys for Defendants,
FRANK FERRARA and CHARLIE FERRARA

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CORY SPENCER, an individual; DIANA
MILENA REED, an individual; and
COASTAL PROTECTION RANGERS,
INC., a California non-profit public
benefit corporation,

Plaintiff,

vs.

LUNADA BAY BOYS; THE
INDIVIDUAL MEMBERS OF THE
LUNADA BAY BOYS, including but not
limited to SANG LEE, BRANT
BLAKEMAN, ALAN JOHNSTON AKA
JALIAN JOHNSTON, MICHAEL RAE
PAPAYANS, ANGELO FERRARA,
FRANK FERRARA, CHARLIE
FERRARA; CITY OF PALOS VERDES
ESTATES; CHIEF OF POLICE JEFF
KEPLEY, in his representative capacity;
and DOES 1-10,

Defendants.

Case No. 2:16-cv-2129

Judge: Hon. S. James Otero
Dept: Courtroom 10C

Magistrate Judge:
Hon. Rozella A. Oliver

**STATEMENT OF
UNCONTROVERTED FACTS
AND CONCLUSIONS OF LAW IN
SUPPORT OF FRANK
FERRARA'S MOTION FOR
SUMMARY JUDGMENT OR, IN
THE ALTERNATIVE, PARTIAL
SUMMARY JUDGMENT**

*[Filed concurrently with Notice of
Motion; Memorandum of Points and
Authorities; Request for Judicial
Notice of Adjudicative Facts;
Declaration of Tiffany Bacon; Notices
of Lodging; proposed Statement of
Uncontroverted Facts and Conclusions
of Law and [Proposed] Judgment
lodged herewith]*

Date: August 21, 2017
Time: 10:00 a.m.
Dept: Courtroom 10C

Complaint Filed: March 29, 2016
Trial Date: November 7, 2017

**STATEMENT OF UNCONTROVERTED FACTS AND
CONCLUSIONS OF LAW IN SUPPORT OF DEFENDANT FRANK
FERRARA’S (hereinafter “Frank Ferrara” or “Defendant”) MOTION FOR
SUMMARY JUDGMENT AGAINST PLAINTIFFS, CORY SPENCER
 (“Spencer”), DIANA MILENA REED (“Reed”) and COASTAL
PROTECTION RANGERS, INC. (“CPR”) (collectively, “Plaintiffs”):**

ISSUE 1: Defendant is entitled to Summary Judgment on all of Plaintiffs’
claims, including Bane Act, Public Nuisance, Assault, Battery, and Negligence, as
Plaintiffs’ claims are without merit.

DEFENDANT’S UNCONTROVERTED FACTS AND CONCLUSIONS OF LAW	EVIDENCE IN SUPPORT OF UNCONTROVERTED FACTS
1. Frank Ferrara is the father of Defendant Charlie Ferrara.	Declaration of Tiffany Bacon (“Bacon Decl.”), Ex. L (hereinafter “F. Ferrara Dep.”) at 22:21-23:2.
2. Frank Ferrara is the brother of Defendant Angelo Ferrara and the uncle of Defendant N.F. and non-party Leo Ferrara.	F. Ferrara Dep. at 21:23-21:25; Bacon Decl., Ex. R (hereinafter C. Ferrara Dep.”) at 18:2-18:19.
3. Frank Ferrara has never met or come into contact with Plaintiff Spencer or Plaintiff Reed.	F. Ferrara Dep. at 213:9-213:20.
4. Prior to January of 2016, Plaintiff Spencer never surfed at Lunada Bay.	Bacon Decl., Ex. M (hereinafter “Spencer Dep.”) at 62:15-62:22.
5. Plaintiff Spencer is unable to distinguish one member of the Ferrara family from the next.	Spencer Dep. at 219:9-219:20.

1	DEFENDANT’S	EVIDENCE IN SUPPORT OF
2	UNCONTROVERTED FACTS AND	UNCONTROVERTED FACTS
3	CONCLUSIONS OF LAW	
4	6. Plaintiff Spencer has never interacted	Bacon Decl., Ex. M and Q; RJN, Ex. H.
5	with Frank Ferrara.	
6	7. Plaintiff Reed never surfed at Lunada	Bacon Decl., Ex. N (hereinafter “Reed
7	Bay prior to January 2016.	Dep.”) at 104:7-105:6.
8	8. Plaintiff Reed has never interacted	Bacon Decl., Ex. N and Q; RJN, Ex. I.
9	with Frank Ferrara.	
10	9. With respect to members of the	Bacon Decl., Ex. O (“Claypool Dep.”) at
11	Ferrara family, Ken Claypool has only	50:16-51:16.
12	interacted with Frank Ferrara, Senior (the	
13	father of Moving Party Frank Ferrara)	
14	and Defendant Angelo Ferrara.	
15	10. Mr. Claypool did not identify	Claypool Dep. at 88:3-88:7.
16	Moving Party Frank Ferrara as one of the	
17	“Lunada Bay Boys.”	
18	11. Jim Russi has no knowledge of	Bacon Decl., Ex. P (hereinafter “Russi
19	Frank Ferrara engaging in any wrongful	Decl.”).
20	conduct at or near Lunada Bay nor Frank	
21	Ferrara being involved in any illegal	
22	activity at or near Lunada Bay.	
23	12. Plaintiffs have not provided a single	Bacon Decl., Ex. Q.
24	discovery response tying any action or	
25	inaction of Frank Ferrara to any of the	
26	Plaintiffs’ claimed damages in this case.	
27	13. Defendant Sang Lee has never had	Bacon Decl., Ex. S (“Lee Dep.”) at
28		

1	DEFENDANT’S	EVIDENCE IN SUPPORT OF
2	UNCONTROVERTED FACTS AND	UNCONTROVERTED FACTS
3	CONCLUSIONS OF LAW	
4	any communications with Frank Ferrara	294:14-295:5; F. Ferrara Dep. at 275:16-
5	about how to behave at Lunada Bay, or	276:23.
6	any communications about preventing	
7	people from visiting Lunada Bay, or any	
8	communications about preventing	
9	persons from surfing Lunada Bay.	
10	14. Defendant Sang Lee has never	Lee Dep. at 295:20-295:25.
11	witnessed Frank Ferrara attempting to	
12	prevent any person from visiting or	
13	surfing Lunada Bay.	

14

15 Alternatively, Frank Ferrara requests partial summary judgment on the

16 following causes of action Only:

17 **ISSUE 2:** Defendant is entitled to Partial Summary Judgment on Plaintiffs’

18 First Cause of Action for Bane Act, as Plaintiffs’ claim is without merit.

19	UNCONTROVERTED FACTS AND	SUPPORTING EVIDENCE IN
20	CONCLUSIONS OF LAW	SUPPORT OF UNCONTROVERTED
21		FACTS
22	Frank Ferrara incorporates	Frank Ferrara incorporates Supporting
23	Uncontroverted Facts and Conclusions of	Evidence to Uncontroverted Facts and
24	Law Nos. 1 through 14 by this reference	Conclusions of Law Nos. 1 through 14
25	as though fully set forth herein.	by this reference as though fully set forth
26		herein.

1 **ISSUE 3:** Defendant is entitled to Partial Summary Judgment on Plaintiffs’
 2 Second Cause of Action for Public Nuisance, as Plaintiffs’ claim is without merit.

3 UNCONTROVERTED FACTS AND	5 SUPPORTING EVIDENCE IN
4 CONCLUSIONS OF LAW	6 SUPPORT OF UNCONTROVERTED
5	7 FACTS
6 Frank Ferrara incorporates	6 Frank Ferrara incorporates Supporting
7 Uncontroverted Facts and Conclusions of	7 Evidence to Uncontroverted Facts and
8 Law Nos. 1 through 14 by this reference	8 Conclusions of Law Nos. 1 through 14
9 as though fully set forth herein.	9 by this reference as though fully set forth
10	10 herein.

11
 12 **ISSUE 4:** Defendant is entitled to Partial Summary Judgment on Plaintiffs’
 13 Sixth Cause of Action for Assault, as Plaintiffs’ claim is without merit.

14 UNCONTROVERTED FACTS AND	15 SUPPORTING EVIDENCE IN
15 CONCLUSIONS OF LAW	16 SUPPORT OF UNCONTROVERTED
16	17 FACTS
17 Frank Ferrara incorporates	17 Frank Ferrara incorporates Supporting
18 Uncontroverted Facts and Conclusions of	18 Evidence to Uncontroverted Facts and
19 Law Nos. 1 through 14 by this reference	19 Conclusions of Law Nos. 1 through 14
20 as though fully set forth herein.	20 by this reference as though fully set forth
21	21 herein.

22
 23 ///
 24 ///
 25 ///
 26 ///
 27 ///
 28

ISSUE 5: Defendant is entitled to Partial Summary Judgment on Plaintiffs' Seventh Cause of Action for Battery, as Plaintiffs' claim is without merit.

UNCONTROVERTED FACTS AND CONCLUSIONS OF LAW

SUPPORTING EVIDENCE IN SUPPORT OF UNCONTROVERTED FACTS

Frank Ferrara incorporates Uncontroverted Facts and Conclusions of Law Nos. 1 through 14 by this reference as though fully set forth herein.

Frank Ferrara incorporates Supporting Evidence to Uncontroverted Facts and Conclusions of Law Nos. 1 through 14 by this reference as though fully set forth herein.

Dated: July __, 2017

BREMER WHYTE BROWN & O'MEARA
LLP

By: _____
Alison K. Hurley
Tiffany L. Bacon
Attorneys for Defendants
FRANK FERRARA and CHARLIE
FERRARA

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 20320 S.W. Birch Street, Second Floor, Newport Beach, California 92660.

On July 24, 2017, I served the within document(s) described as:

DEFENDANT FRANK FERRARA'S NOTICE OF LODGING [PROPOSED]
STATEMENT OF UNCONTROVERTED FACTS AND CONCLUSIONS OF LAW

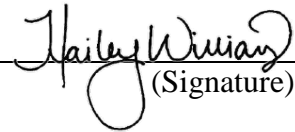
on the interested parties in this action as stated on the attached mailing list.

☒ (BY ELECTRONIC SERVICE) Complying with Code of Civil Procedure § 1010, I caused such document(s) to be Electronically Filed and Served through the _for the above-entitled case. Upon completion of transmission of said document(s), a filing receipt is issued to the filing party acknowledging receipt, filing and service by 's system. A copy of the [Email receipt System] filing receipt page will be maintained with the original document(s) in our office.

Executed on July 24, 2017, at Newport Beach, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Hailey Williams
(Type or print name)


(Signature)

Cory Spencer v. Lunada Bay Boys et al.,

Case No. 2:16-cv-2129-SJO

BWB&O CLIENT: Frank and Charlie Ferrara
BWB&O FILE NO.: 1178.176

SERVICE LIST

<p>Samantha Wolff, Esq. HANSON BRIDGETT 425 Market Street 26th Floor San Francisco, CA 94105 (415) 777-3200 (415) 541-9366 Fax Attorneys For PLAINTIFF</p> <p>swolff@hansonbridgett.com kfranklin@hansonbridgett.com</p>	<p>Tyson M. Shower, Esq. HANSON BRIDGETT 500 Capitol Mall Suite 1500 Sacramento, CA 95814 (916) 442-3333 (916) 442-2348 Fax Attorneys For PLAINTIFFS</p> <p>tshower@hansonbridgett.com</p>	<p>Victor Otten, Esq. OTTEN LAW, PC 3620 Pacific Coast Highway Suite 100 Torrance, CA 90505 (310) 378-8533 (310) 347-4225 Fax Attorneys For PLAINTIFFS</p> <p>vic@ottenlawpc.com</p>
<p>Jacob Song, Esq. KUTAK ROCK LLP 5 Park Plaza Suite 1500 Irvine, CA 92614 (949) 417-0999 (949) 417-5639 Attorney For CITY OF PALOS VERDES ESTATES and JEFF KEPLEY, in his representative capacity, serves as the Chief of Police Department of Defendant City of Palos Verdes Estates.</p> <p>jacob.song@kutakrock.com</p>	<p>J. Patrick Carey, Esq. LAW OFFICE OF PATRICK CAREY 1230 Rosecrans Avenue Suite 270 Manhattan Beach, CA 90266 (310) 526-2237 (310) 356-3671 Fax Attorney For ALAN JOHNSTON individual member of LUNADA BAY BOYS aka JALIAN JOHNSTON</p> <p>pat@patcareylaw.com</p>	<p>Aaron G. Miller, Esq. THE PHILIPS FIRM 800 Wilshire Boulevard Suite 1550 Los Angeles, CA 90017 (213) 244-9913 (213) 244-9915 Fax Attorneys For ANGELO FERRARA</p> <p>amiller@thephillipsfirm.com</p>
<p>Mark Fields, Esq. LAW OFFICES OF MARK C. FIELDS 333 So. Hope Street Suite 3500 Los Angeles, CA 90071 (213) 617-5225 (213) 629-2420 Fax Attorney For ANGELO FERRARA an individual member of LUNADA BAY BOYS and N.F. an individual member of LUNADA BAY BOYS</p> <p>fields@markfieldslaw.com</p>	<p>Peter R. Haven, Esq. HAVEN LAW 1230 Rosecrans Avenue Suite 300 Manhattan Beach, CA 90266 (310) 272-5353 (213) 477-2137 Fax Attorneys For MICHAEL RAY PAPAYANS</p> <p>peter@havenlaw.com</p>	<p>Dana Alden Fox, Esq. LEWIS BRISBOIS BISGAARD & SMITH, LLP 633 W. 5th Street Site 4000 Los Angeles, CA 90071 (213) 580-3858 (213) 250-7900 Fax Attorneys For SANG LEE</p> <p>Dana.Fox@lewisbrisbois.com</p>